

THE NORTH-WESTERN PROVINCES AND
OUDH MUNICIPALITIES ACT, 1883.

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ACT No. XV OF 1883.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 14th
September, 1883.)

An Act to make better provision for the Organization and Administration of Municipalities in the North-Western Provinces and Oudh.

WHEREAS it is expedient to make better provision for the organization and administration of municipalities in the North-Western Provinces and Oudh; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

- Short title. 1. (1) This Act may be called the North-Western Provinces and Oudh Municipalities Act, 1883.
- Local extent. (2) It extends to the territories for the time being administered by the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh; and
- Commencement. (3) It shall come into force on the first day of November, 1883.
- Definitions. 2. In this Act, unless there is something repugnant in the subject or context,—
- (a) "Municipality" means a local area to which this Act has been applied under section 4 or section 5:
- (b) "Honorary Magistrate" means a Magistrate who holds no salaried office in any department of the Government service:
- (c) "Prescribed"

(c) "Prescribed" means prescribed by rules made by the Local Government under this Act.

3. (1) The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may from time to time determine, declare its intention to apply this Act to any town or to any group of towns in the immediate neighbourhood of one another.

Notification of intention to apply Act.

(2) Every notification under this section shall define the limits of the town or group of towns to which it refers, and may include within those limits any railway-station, village, building or land in the vicinity of any such town:

Provided that it shall not, without the previous consent of the Governor General in Council, so include any part of a military cantonment.

4. (1) Any inhabitant of a local area in respect of which a notification has been published under section 3 may, if he objects to the application of the Act, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

Application of Act.

(2) When six weeks from the publication of the notification in the Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, apply this Act to the local area.

5. The Local Government may, by notification in the official Gazette, apply this Act to any local area which is a municipality established under the North-Western Provinces and Oudh Municipalities Act, 1873, and shall, within three months from the date on which this Act comes into force, so apply it to every such local area unless, before the expiration of that period,—

Special rule as to application of Act to towns to which Act XV of 1873 applies.

XV of 1873.

(a) the Act has been applied under section 4 to some local area in which that local area is comprised; or

(b) the

- (b) the Local Government has declared, by a notification in the official Gazette, that the provisions of this Act are unsuited to that local area.

CHAPTER II.

ORGANIZATION OF MUNICIPAL BOARDS.

Constitution of Boards.

Board to consist of elected and appointed members.

6. There shall be established for each municipality a municipal board having authority over that municipality, and consisting of—

- (a) so many elected members as may be determined in manner prescribed, representing wards of the municipality or particular classes of the inhabitants; and
- (b) such person or persons (if any), not exceeding in number one-fourth of the board, as the Local Government may, subject to the rules made under section 64, from time to time, appoint in this behalf.

Magistrate to convene meeting to determine system of election.

7. (1) The Magistrate of the district within which any municipality is situate shall, within one month from the date on which this Act has been applied to the municipality under section 4 or section 5, issue notices in writing to the persons mentioned in section 8, inviting them to meet at a time and place specified in the notices, for the purpose of preparing and submitting, within such further time not exceeding three months from the date of the meeting as the Local Government may fix in this behalf, proposals for determining the system of representation and election to be established in the municipality.

(2) The Local Government may, for special reasons, grant an extension, not exceeding one month, of the time fixed under this section for submitting proposals.

8. Notices

8. Notices under section 7 shall be issued to the following persons, namely :—

Persons to be invited to meeting.

- (a) all Honorary Magistrates having jurisdiction within the limits of the municipality;
- (b) when the municipality comprises any local area for which a municipal committee has been appointed under the North-Western Provinces and Oudh Municipalities Act, 1873, the members of that committee;
- (c) when the municipality comprises any local area for which a panchayat has been appointed under Act XX of 1856, the members of that panchayat; and
- (d) any leading residents of the municipality not included under the foregoing clauses who in the opinion of the Magistrate of the district should be allowed to take part in the discussion.

XV of 1873.

9. The persons who meet in compliance with the notices issued under section 7 shall consider, and shall, within the time limited under that section, submit through the Magistrate of the district to the Local Government proposals regarding the following matters, namely :—

Matters to be considered at the meeting.

- (a) the division of the municipality into wards;
- (b) the number of representatives proper for each ward;
- (c) the provision (if any) to be made for the special representation of any classes of the community;
- (d) the qualifications of electors and of candidates for election;
- (e) the registration of electors;
- (f) the nomination of candidates, the time of election and the mode of recording votes; and
- (g) any

(g) any other matters regarding the system of representation and of election which it may seem to the meeting expedient to consider.

Power to Local Government to make rules regarding election.

10. (1) The Local Government shall, after taking into consideration the proposals (if any) submitted under section 9, make rules regulating the matters referred to in that section, and may in making such rules direct that the breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

(2) The Local Government may, after the municipal board has come into existence as hereinafter provided, from time to time amend, after consulting the board, the rules made under this section; but no amendment made under this sub-section shall take effect until six months after it has been published in the official Gazette.

(3) Elective members of the board shall be elected in accordance with the rules made under this section and for the time being in force.

Term of office of member of board.

11. (1) The term of office of a member of a municipal board shall be fixed, from time to time, by the Local Government by rules made under this Act, and may be so fixed as to provide for the retirement of members by rotation, but shall not exceed three years.

(2) An outgoing member shall, if otherwise qualified, be again eligible for election or appointment.

Resignation of member.

12. A member of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

Removal of member.

13. The Local Government may, from time to time, remove any member of a municipal board who refuses to act or becomes incapable of acting, or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order,

order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be a member, or who without sufficient excuse neglects for more than three consecutive months to be present at the meetings of the board.

14. (1) When the place of an elected member of a municipal board becomes vacant by his resignation, removal or death, a new member shall be elected in manner prescribed to fill the place:

Filling of casual vacancies.

Provided that the Local Government may, subject to the limitation of the proportion of appointed members of the board fixed by section 6, clause (b), direct in any such case that the vacancy shall be left unfilled.

(2) When the place of an appointed member of a municipal board becomes vacant as aforesaid, the Local Government may, if it thinks fit, but subject to the rules made under section 64, appoint a new member to fill the place.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office, but shall be again eligible for election or appointment.

15. Every municipal board shall be a body corporate by the name of the municipal board of its municipality, shall have perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and, subject to the rules made under section 64, to transfer any property held by it, and to contract and to do all other things necessary for the purposes of its constitution, and may sue and be sued in its corporate name.

Incorporation of municipal board.

16. A municipal board shall come into existence at such time as the Local Government may, by notification in the official Gazette, appoint in this behalf.

Time for boards coming into existence.

17. (1) When a municipal board comes into existence under section 16 for a municipality constituted under

Consequences of establishment of

municipal
board where
municipal
committee
exists or Act
XX of 1856
is in force.

under this Act, and that municipality comprises within its limits a local area which is a municipality under the North-Western Provinces and Oudh Municipalities Act, 1873, the following consequences shall ensue, namely :—

- (a) the said North-Western Provinces and Oudh Municipalities Act shall cease to apply to the local area ;
- (b) the municipal committee (if any) constituted under that Act for the local area shall cease to exist ;
- (c) all property vested in that committee shall vest in the municipal board for the purposes of this Act, subject to all rights (if any) existing over, and all debts, liabilities and obligations (if any) affecting, that property ;
- (d) every right and liability belonging to or incurred by the committee may be enforced by and against the board in like manner as it might have been enforced by and against the committee if this Act had not been passed ;
- (e) a Government officer employed by the committee at the time when the board comes into existence shall be deemed to be similarly employed by the board, and shall not be dismissed from that employment without the sanction of the Local Government ; and
- (f) the Board shall be substituted for the committee in all legal proceedings by or against the committee pending at the time when the board comes into existence.

(2) When a municipal board comes into existence under section 16 for a municipality constituted under this Act, and that municipality comprises within its limits a local area in which Act XX of 1856 (*An Act to make better provision for the appointment and maintenance*

maintenance of Police Chaukidars in Cities, Towns, Stations, Suburbs and Bázars in the Presidency of Fort William in Bengal) is in force, that Act shall cease to have effect in the local area, and every panchayát constituted under that Act for the local area shall cease to exist.

Chairman and Vice-Chairman.

18. A municipal board shall, from time to time, at a special meeting, elect as its chairman one of its own members or some other person qualified for election as a member, and the member or other person so elected shall, if the election is approved by the Local Government, but not otherwise, become chairman of the board :

Election or appointment of chairman.

Provided that—

- (a) if the office of chairman remains vacant for three months from the date of the first meeting of the board, or in the case of a vacancy afterwards occurring, from the occurrence of that vacancy, and no person is within that period elected under this section to fill it, the Local Government may in its discretion appoint such person as it thinks fit by name or by virtue of his office to be chairman ; and
- (b) in such municipalities as the Local Government may, from time to time, by notification in the official Gazette, exempt from the operation of this section, the Local Government may, from time to time, appoint such person as it thinks fit by name or by virtue of his office to be chairman.

19. In every municipality the board shall, from time to time, at a special meeting, elect one or two of its members to be its vice-chairman or vice-chairmen.

Election of vice-chairman.

20. (1) The term of office of a member of the board elected to be chairman shall be the residue of his term of office as member.

Term of office of chairman and vice-chairman.

(2) The

(2) The term of office of any other person elected to be chairman, or of a chairman appointed by the Local Government, shall be such term not exceeding three years as the Local Government may, from time to time, by rule prescribe.

(3) The term of office of a vice-chairman shall be one year : Provided that when at the time of his election as vice-chairman the residue of his term of office as member of the board is less than one year, his term of office as vice-chairman shall be the residue of his term as member.

(4) An out-going chairman or vice-chairman shall, if otherwise qualified, be again eligible for election or appointment.

Resignation
of chairman
or vice-chair-
man.

21. (1) A chairman of a municipal board may resign by notifying in writing his intention to do so to the Local Government, and, on his resignation being accepted by the Local Government, he shall be deemed to have vacated his office.

(2) A vice-chairman of a municipal board may resign by notifying in writing his intention to do so to the board, and, on his resignation being accepted by the board, he shall be deemed to have vacated his office.

Removal of
chairman or
vice-chair-
man.

22. The Local Government may remove any chairman or vice-chairman of a municipal board from his office as such chairman or vice-chairman if he refuses to act or becomes incapable of acting or is declared an insolvent, or is convicted of any such offence, or subjected by a Criminal Court to any such order, as implies, in the opinion of the Local Government, a defect of character which unfits him to be chairman or vice-chairman, or if he, without sufficient excuse, neglects for more than three consecutive months to be present at the meetings of the board.

Casual va-
cancies in
office of
chairman or
vice-chair-
man.

23. (1) If an elected chairman or vice-chairman dies or resigns his office, or is removed, a new chairman or vice-chairman shall be elected or appointed in
manner

manner provided by section 18 or section 19, as the case may be.

(2) If a chairman appointed by the Local Government dies, resigns his office or is removed, the Local Government shall appoint another chairman.

(3) A person elected or appointed under this section to fill a casual vacancy shall hold office until the person whose place he fills would regularly have gone out of office, and shall then go out of office: Provided that if a person so elected is a member of the board at the time of his election, he shall go out of office on ceasing to be a member.

(4) A person going out of office under sub-section (3) shall, if otherwise qualified, be again eligible for election or appointment.

24. When a person not already a member of the board is elected or appointed chairman, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of his election or appointment, and shall continue to be a member so long as he holds office as chairman.

Chairman to become member if not already member.

Notification of Elections, Appointments and Vacancies.

25. Every election and appointment of a member or chairman of a municipal board and every vacancy in the office of member or chairman shall be notified in the official Gazette.

Notification of elections, appointments and vacancies.

Joint Committees.

26. (1) A municipal board may, from time to time, concur with any other municipal board, or with a district board, or with a cantonment authority, or with more than one such board or authority, in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of the committee, and in delegating to any such committee any power which might be exercised by either or any of the boards or authorities, and in framing and modifying

Joint committees.

fyng regulations as to the proceedings of any such committee, and as to the conduct of correspondence relating to the purpose for which the committee is appointed.

(2) If any difference of opinion arises between boards or authorities acting under this section, the decision thereon of the Commissioner of the division, if the areas under the boards and authorities are in the same division, or of the Local Government if those areas are in different divisions, shall be final.

Conduct of Business.

Time for holding meetings.

27. (1) A municipal board shall meet for the transaction of business at least once in every month on such day as may, from time to time, be fixed by the rules made under section 34.

(2) The chairman, or, in his absence, a vice-chairman, may, whenever he thinks fit, and shall, upon a requisition made in writing by not less than one-fifth of the members of the board, convene either an ordinary or a special meeting at any other time.

Ordinary and special meetings.

28. (1) A meeting of a municipal board shall be either ordinary or special.

(2) Any business may be transacted at an ordinary meeting unless it is required by this Act or the rules made under this Act to be transacted at a special meeting.

Quorum.

29. (1) The quorum necessary for the transaction of business at a special meeting of a municipal board shall be one-half of the whole board.

(2) The quorum necessary for the transaction of business at an ordinary meeting of a municipal board shall be such number or proportion of the members of the board as may, from time to time, be fixed by the rules made under section 34:

Provided that, if at any ordinary or special meeting of the board a quorum is not present, the chairman shall adjourn the meeting to such other day as he thinks fit, and the business which would have been

brought

brought before the original meeting if there had been a quorum present shall be brought before, and transacted at, the adjourned meeting whether there is a quorum present thereat or not.

30. (1) At every meeting of a municipal board the chairman, if present, shall preside. Chairman of meeting.

(2) If, when any meeting is held, the office of chairman is vacant, or the chairman is absent from the meeting, and a vice-chairman is present, such vice-chairman, or, when two vice-chairmen are present, the senior of them by date of appointment, shall preside.

(3) In any case not provided for in the foregoing portion of this section, the members present shall elect one of their number to be chairman of the meeting.

31. (1) Except as otherwise provided by this Act, or by any rule made by the Local Government under this Act, all questions which may come before any meeting of a municipal board shall be decided by a majority of the votes of the members present. Vote of majority decisive.

(2) In case of an equality of votes, the chairman of the meeting shall have a second or casting vote.

32. The Civil Surgeon of the district, the Executive Engineer of the division, and the Inspector of Schools of the circle, shall be entitled to attend any meeting of the board, and to address the board on any matter affecting respectively sanitation, public works and public instruction. Certain officers entitled to attend and speak.

33. (1) Every resolution passed by a municipal board at a meeting shall be recorded in a book kept for the purpose, shall be signed by the chairman of the meeting or the next ensuing meeting, and shall be published in some local English or Vernacular newspaper, or in such other manner as the Local Government may, from time to time, direct. Resolutions to be recorded and published.

(2) A copy of every resolution passed by a municipal board at a meeting shall, within ten days from the

the date of the meeting, be forwarded to the Magistrate of the district.

Power to
make rules
as to meet-
ings and
proceedings.

34. (1) Every municipal board may, from time to time, at a special meeting, make rules consistent with this Act and any rules made under this Act by the Local Government as to—

- (a) the time and place of its meetings ;
- (b) the manner of convening ordinary and special meetings respectively and of giving notice thereof ;
- (c) the quorum necessary for the transaction of business at ordinary meetings ;
- (d) the conduct of proceedings at meetings, and the adjournment of meetings ;
- (e) the division of duties among the members of the board ;
- (f) the persons by whom receipts may be granted on behalf of the board for money paid under this Act ; and
- (g) all other similar matters.

(2) Every rule made under this section shall be published in such manner as the Local Government may, from time to time, direct.

Officers and Servants.

Appointment
of secretary.

35. (1) Every municipal board shall, from time to time, at a special meeting, appoint one or more of its members, or, with the sanction of the Commissioner of the division, any other person or persons, to be its secretary or secretaries, and may at a like meeting remove any person so appointed.

(2) If a person who is an officer in the service of the Government, and who is not a member of the board, is appointed secretary, he shall, notwithstanding anything in the foregoing sections, become a member of the board by virtue of such appointment, and shall continue to be a member of the board as long as he holds the office of secretary.

(3) When

(3) When a member of the board is appointed to be secretary, he shall receive no remuneration in respect of his services. In other cases, the board may, with the previous sanction of the Commissioner, assign to a secretary any such pay as it thinks fit.

36. Subject to the other provisions of this Act, and to such rules as the Local Government may, from time to time, make prescribing the qualifications requisite in the case of persons appointed to offices requiring professional skill, a municipal board may employ, in addition to its secretary or secretaries, such other officers and servants as may be necessary or proper for the efficient execution of its duties, and may assign to such officers and servants such pay as it thinks fit.

Employment
of other
officers and
servants.

37. In the case of a Government official employed by a municipal board, the board may—

Pensions of
Government
officials
serving
boards.

(1) if his services are wholly lent to it, contribute to his pension, gratuities and leave allowances in accordance with the rules of the Government Civil Pension and Leave Codes for the time being in force; and

(2) if he devotes only a part of his time to the performance of duties in behalf of the board, contribute to his pension, gratuities and leave allowances in such proportion as may be determined by the Government.

38. In the case of a servant not being a Government official referred to in section 37, a board may—

Pensions of
servants
of boards.

(1) grant him leave allowances and, if his monthly pay is less than ten rupees, gratuities; and

(2) if empowered in this behalf by the Local Government—

(a) subscribe in his behalf for pension, gratuities and leave allowances under the rules of the Government Civil Pension and Leave Codes for the time being in force; or

(b) purchase

(b) purchase for him from the Government or otherwise an annuity on his retirement :

Provided that no pension, gratuity, leave allowance or annuity shall exceed the sum to which, under the Government Civil Pension and Leave Codes for the time being in force, he would be entitled if the service had been service under the Government.

Contracts.

Authority to contract.

39. (1) A municipal board may delegate to one or more of its members the power of entering into, on its behalf, any contract whereof the value or amount does not exceed two hundred rupees.

(2) A contract whereof the value or amount exceeds two hundred rupees shall not be executed until it has been sanctioned by the board at a meeting.

Mode of executing contracts.

40. (1) Every contract made by or on behalf of a municipal board whereof the value or amount exceeds twenty rupees shall be in writing.

(2) Every such contract shall be signed by the chairman, or a vice-chairman, and a secretary :

Provided that the board may delegate to one or more of its members the power of executing any contracts which he or they are empowered to enter into under section 39, sub-section (1).

(3) If a contract to which this section applies is executed otherwise than in conformity therewith, it shall not be binding on the board.

CHAPTER III.

TAXATION AND MUNICIPAL FUND.

Taxation.

Taxes which may be imposed.

41. Subject to any general rules or special orders which the Governor General in Council may, from time to time, make in this behalf, a municipal board may, for the purposes of this Act, impose, with the sanction hereinafter specified in each case, and in manner

manner prescribed by section 42, any of the following taxes, namely :—

(1) with the previous sanction of the Local Government—

- (a) a tax on houses, buildings and lands situate within the municipality, not exceeding seven and a half per centum of the annual value of the houses, buildings and lands ;
- (b) a tax on persons exercising professions or carrying on trades or dealings in the municipality ;
- (c) a tax on vehicles and on animals used for riding or driving or as beasts of burthen, when such vehicles or animals are kept within the municipality ;
- (d) a tax on vehicles and on animals as aforesaid entering the municipality, and on boats moored therein ;
- (e) an octroi on goods or animals brought within the municipality for consumption or use therein ; and

(2) with the previous sanction of the Local Government and of the Governor General in Council, any other tax.

42. (1) A municipal board may resolve at a special meeting to propose the imposition of any tax for the purposes of this Act. Procedure in imposing taxes.

(2) When a resolution has been passed under subsection (1), the board shall publish a notice defining the persons or property proposed to be taxed, the amount or rate of the tax to be imposed, and the system of assessment to be adopted.

(3) Any inhabitant of the municipality objecting to the proposed tax may, within a fortnight from the publication of the notice, submit his objection in writing to the board, and the board shall, at a special meeting, take his objection into consideration.

(4) If no objection is submitted within the said period

period of a fortnight under sub-section (3), or if the objections so submitted, having been considered as aforesaid, are deemed insufficient, the board may forward its proposals to the Local Government, with the objections (if any) which have been submitted as aforesaid.

(5) The Local Government on receiving proposals under sub-section (4) may sanction the same, or refuse to sanction them, or return them to the board for further consideration.

(6) When the Local Government sanctions any proposals which, under section 41, sub-section (2), require the further sanction of the Governor General in Council, it shall submit those proposals to the Governor General in Council, with the objections (if any) received through the board; and the Governor General in Council may sanction the proposals, or refuse to sanction them, or return them to the Local Government for further consideration.

(7) When the proposals of a municipal board have been sanctioned by the Local Government, or by the Local Government and the Governor General in Council, as the case may be, the board may, at a special meeting, direct the imposition of the tax in accordance with those proposals.

Tax not
invalid for
defect of
form.

43. A tax imposed under this Act shall not be invalid for defect of form, and when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier.

Power to
abolish or
reduce tax.

44. A municipal board, by a resolution passed at a special meeting and confirmed by the Local Government, or the Local Government with the previous sanction of the Governor General in Council, may abolish or reduce any tax imposed under the foregoing sections.

Taxes levi-
able under
Act XV of

45. All taxes leviable in any local area under the North-Western Provinces and Oudh Municipalities Act,

XV of 1873.

Act, 1873, at the time when a municipal board having authority over that local area comes into existence under this Act, shall be deemed to have been imposed and assessed under this Act.

1873 to be deemed to be taxes under this Act.

46. Arrears of any tax imposed under this Act may be recovered, on application to a Magistrate having jurisdiction within the limits of the municipality, by the distress and sale of any moveable property belonging to the defaulter within those limits.

Recovery of taxes.

Municipal Fund.

47. (1) There shall be formed for each municipality a municipal fund, and there shall be placed to the credit thereof—

Constitution and application of municipal fund.

- (a) all sums received by or on behalf of the board;
- (b) all fines realized in cases in which prosecutions are instituted under this Act or section 34 of Act V of 1861 for offences committed within the municipality;
- (c) when there has been included within the municipality any municipality constituted under the North-Western Provinces and Oudh Municipalities Act, 1873, the balance (if any) standing at the credit of the municipal fund of that municipality at the time when the municipal board came into existence; and
- (d) when there has been included within the municipality any local area in which the said Act XX of 1856 was in force at the time when the municipal board came into existence, the amount (if any) then available under section 36 of that Act for the purposes of cleansing, lighting and improvement in that local area.

V of 1873.

(2) The municipal fund shall, subject to the provisions of this Act, be applicable, at the discretion of the municipal board, to all the purposes of this Act within

within the limits of the municipality, and, with the previous sanction of the Local Government, to like purposes beyond those limits, when such application of the fund is for the benefit of the inhabitants of the municipality.

Custody and investment of municipal fund.

48. (1) In places where there is a Government treasury or sub-treasury, or a bank to which the Government treasury business has been made over, the municipal fund shall be kept in the treasury, sub-treasury or bank.

(2) In places where there is no such treasury or sub-treasury or bank, the municipal fund may be deposited with any banker, or person acting as a banker, who has given such security for the safe custody and repayment on demand of the fund so deposited as the Local Government may in each case think sufficient.

(3) A municipal board may, from time to time, with the previous sanction of the Local Government, invest any portion of its municipal fund in securities of the Government of India or such other securities as the Governor General in Council may, from time to time, approve in this behalf, and vary such investments for others of the like nature. The income resulting from the securities and the proceeds of the sale of the same shall be credited to the municipal fund.

CHAPTER IV.

POWERS AND DUTIES OF MUNICIPAL BOARDS GENERALLY.

Municipal Police.

Police establishment.

49. Every municipal board shall maintain a police-establishment for watch and ward, for the prevention and suppression of nuisances and for the enforcement of the rules and orders of the board.

Constitution of establishment.

50. Subject to the provisions of section 9 of the
Cantonments

III of 1880.

Cantonments Act, 1880, the establishment maintained under section 49 shall, as the board with the approval of the Local Government may, from time to time, direct, be either a body of watchmen or a part of the general police force under the Local Government within the meaning of section 2 of Act V of 1861; and it shall consist of such number of officers and men, and the officers and men shall receive such pay, leave allowances, gratuities and pensions, as the board may, from time to time, after consultation with the Magistrate of the district and the Inspector General of Police, and subject to the final decision of the Local Government, direct.

51. If the establishment maintained under section 49 is a body of watchmen, the watchmen shall be appointed and promoted, and shall be liable to dismissal, suspension, reduction or fine, under such rules as the Local Government may, from time to time, make in this behalf; and shall perform such duties, and be liable to such penalties, as village-policemen appointed under the North-Western Provinces Village and Road Police Act, 1873, or under the Oudh Laws Act, 1876, as the case may be, perform and are liable to.

Appointment, punishment and duties of municipal watchmen.

XVI of 1873.
XVIII of
1876.

52. If the establishment is part of the general police force, the Local Government may, notwithstanding anything contained in Act V of 1861 or in any other Act for the time being in force, define the duties which the officers and men of the establishment may or may not be required to perform.

Duties of municipal police enrolled under Act V of 1861.

53. In any municipality in which section 34 of Act V of 1861 is in force, every watchman under this Act shall have the powers of a police-officer under that section.

Powers under section 34 of Act V of 1861.

Conservancy and General Improvement.

54. Every municipal board, so far as the municipal fund at its disposal will permit, but subject to any agreement between the board and the Local Government

Duties of municipal board generally.

ernment

ernment as to the application of that fund, shall, after providing for the maintenance of the police-establishment referred to in the foregoing sections,—

- (1) provide for the construction, maintenance, repair and cleansing of the public streets, roads, drains, tanks and watercourses;
- (2) cause those streets and roads to be watered and lighted;
- (3) provide for the establishment, maintenance and management of schools and dispensaries and of other public institutions for the promotion of education or for the benefit of the public health, and control and administer all such institutions within the municipality, except where they may, by order of the Local Government, have been excepted from the operation of this section;
- (4) provide for the establishment, maintenance and management of poor-houses, markets and other works of public utility; and
- (5) generally do all acts and things calculated to promote the health, comfort, convenience or interests of the inhabitants of the municipality.

Power to make and enforce Rules.

Power to
make rules.

55. (1) A municipal board may, from time to time, at a special meeting, make rules—

- (a) for prohibiting, preventing and punishing such acts or omissions within the municipality as may, in the opinion of the board, cause or tend to cause any common injury, danger or annoyance to the public, or to people in general, who dwell or occupy property in the vicinity, or injury, obstruction, danger or annoyance to persons who have occasion to use any public right, or may, in its opinion, be prejudicial to the public

public health, safety or convenience, or offences against public decency ;

- (b) for protecting from injury or interference anything within the municipality being the property of Her Majesty or of the board ;
- (c) for prohibiting or controlling the establishment or maintenance of markets, saráis and halting places, and controlling the management of the same and of any places of public entertainment and resort ;
- (d) for controlling and regulating the use and management of burial and burning grounds ;
- (e) for limiting the rates which may be demanded for the hire of any carriage, cart, boat or other conveyance, or of animals hired to carry loads, or for the services of persons hired to carry loads, where those conveyances, animals or persons are hired within the municipality for a period not exceeding twenty-four hours, or for a service which would ordinarily be performed within twenty-four hours ;
- (f) for securing a proper registration of births, marriages and deaths ;
- (g) for defining the cases, manner and times in and at which officers of the board may enter on private property for the enforcement of rules made under this section ;
- (h) in hilly tracts, for regulating or prohibiting the cutting of trees or shrubs, or the excavation or removal of soil, where such regulation or prohibition appears necessary for the preservation of the soil, the prevention of land-slips or of the formation of ravines or torrents, the protection of land against erosion, or the deposit thereon of sand, stones or gravel ; and
- (i) generally

(i) generally for carrying out the purposes of this Act.

(2) In making any rule under this section, a municipal board may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

(3) A rule made under this section shall not come into force until it has been confirmed by the Local Government and published for such time and in such manner as the Local Government may, from time to time, prescribe in this behalf.

(4) Notwithstanding anything contained in the foregoing portion of this section, the municipal board of a municipality in which the Hackney-carriage Act, 1879, is in force shall not make rules under subsection (1) in respect of any vehicles to which that Act applies.

XIV of 1879

Power to prohibit commission of public nuisances.

56. Subject to any orders which the Local Government may, from time to time, make in this behalf, a municipal board may order any person not to do, or not to omit to do, within the municipality, anything the doing of, or the omission to do, which is a public nuisance.

Powers as to conditional orders in respect of certain acts and omissions.

57. (1) The Local Government may invest, within the limits of the municipality, a municipal board with the powers of a Magistrate of a district as described in section 133 of the Code of Criminal Procedure, and with power to make conditional orders of the nature referred to in that section, in respect of all or any acts or omissions punishable under rules made in exercise of the power conferred by section 55, clauses (a), (b), (c), (d) and (h).

X of 1882

(2) Sections 133 to 142 (both inclusive) of the Code of Criminal Procedure shall, so far as they can be made applicable, apply to all proceedings taken in exercise of these powers:

X of 1882

Provided

Provided that, for the purposes of such proceedings, section 133 of the Code shall be read as if, for the words "before himself or some other Magistrate of the first or second class", the words "before the District Magistrate or some magistrate of the first or second class appointed by him in this behalf", were substituted.

(3) The Local Government may, whenever it thinks fit, withdraw the powers with which it has invested a board under this section.

58. A municipal board may, at a special meeting, delegate to one or more committees of its members any of the powers vested in the board by section 56, or with which the board may have been invested under section 57.

Delegation of powers under sections 56 and 57.

CHAPTER V. CONTROL.

59. The Commissioner of the division or the Magistrate of the district, when he is not a member of the municipal board, may—

Control by Commissioner or Magistrate.

- (a) enter on and inspect, or cause to be entered on and inspected, any immovable property within the limits of the division or district respectively occupied by any municipal board or joint committee, or any work in progress within those limits under the direction of any such board or committee;
- (b) call for and inspect any book or document in the possession or under the control of any such board or committee having authority within those limits;
- (c) require any such board or committee to furnish such statements, accounts, reports and copies of documents relating to the proceedings or duties of the board or committee, as he may think fit to call for; and
- (d) record in writing, for the consideration of any such

such board or committee, any observations he may think proper in regard to the proceedings or duties of the board or committee.

Power to suspend action under Act.

60. (1) The Commissioner of the division or the Magistrate of the district may, by order in writing, suspend within the limits of the division or district (as the case may be) the execution of any resolution or order of a municipal board or joint committee, or prohibit the doing within those limits of any act which is about to be done, or is being done, in pursuance of or under cover of this Act, if, in his opinion, the resolution, order or act is in excess of the powers conferred by law, or the execution of the resolution or order, or the doing of the act, is likely to lead to a serious breach of the peace, or to cause serious injury or annoyance to the public or to any class or body of persons.

(2) When a Commissioner or Magistrate makes any order under this section, he shall forthwith forward a copy thereof, with a statement of his reasons for making it, to the Local Government, which may thereupon rescind the order or direct that it continue in force with or without modification, permanently, or for such period as it thinks fit.

Extraordinary powers of Magistrate in case of emergency.

61. (1) In cases of emergency, the Magistrate of the district may provide for the execution of any work, or the doing of any act, which a municipal board is empowered to execute or do, and the immediate execution or doing of which is in his opinion necessary for the service or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the board.

(2) If the expense is not so paid, the Magistrate of the district may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or as much thereof as is, from time to time, possible, from that balance, in priority to any or all other charges against the same.

(3) The

(3) The Magistrate of the district shall forthwith report to the Commissioner every case in which he uses the powers conferred on him by this section.

62. (1) If at any time it appears to the Local Government that a municipal board has made default in performing any duty imposed on it by or under this or any other Act, the Local Government may, by order in writing, fix a period for the performance of that duty.

Powers of Local Government in case of default of board.

(2) If that duty is not performed within the period so fixed, the Local Government may appoint the Magistrate of the district to perform it, and may direct that the expense of performing it shall be paid, within such time as it may fix, to the Magistrate by the board.

(3) If the expense is not so paid, the Magistrate, with the previous sanction of the Local Government, may make an order directing the person having the custody of the balance of the municipal fund to pay the expense, or so much thereof as is, from time to time, possible, from the balance, in priority to any or all other charges against the same.

63. (1) If a municipal board is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this or any other Act for the time being in force, or exceeds or abuses its powers, the Local Government may, with the previous approval of the Governor General in Council, by an order published, with the reasons for making it, in the local official Gazette, declare that board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and supersede it for a period to be specified in the order.

Power of Local Government to supersede board in case of incompetency, persistent default or abuse of powers.

(2) When a board is so superseded, the following consequences shall ensue:—

(a) All members of the board shall, as from the date of the order, vacate their offices as such members.

(b) All

(b) All powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as the Local Government, from time to time, appoints in that behalf.

(c) All property vested in the board shall, during the period of supersession, vest in Her Majesty.

(3) On the expiration of the period of supersession specified in the order, the board shall be reconstituted, and the persons who vacated their offices under clause (a) shall not be deemed disqualified for being members.

Power of
Local Gov-
ernment to
frame forms
and make
rules.

64. (1) The Local Government may, from time to time, frame forms for any proceeding of a municipal board for which it considers that a form should be provided, and make rules consistent with this Act—

(a) as to the appointment of members of a municipal board;

(b) as to the language of the board;

(c) for the assessment and collection of taxes imposed under this Act, and for preventing evasion of the same;

(d) as to the authority on which money may be paid from the municipal fund;

(e) as to the conditions on which property vested in the board may be transferred by sale, mortgage, lease, exchange or otherwise;

(f) as to the qualifications requisite in the case of persons appointed by the board to offices requiring professional skill;

(g) as to the intermediate office or offices, if any, through which correspondence between boards and the Local Government or officers of that Government and representations addressed to the Local Government under this Act shall pass;

(h) as

- (h) as to the preparation of plans and estimates for works which are to be partly or wholly constructed at the expense of boards, and as to the authority by whom, and the conditions subject to which, such plans and estimates may be sanctioned;
 - (i) as to the accounts to be kept by boards, as to the manner in which such accounts shall be audited and published, and as to the power of the auditors in respect of disallowance and surcharge;
 - (j) as to the preparation of estimates of income and expenditure of boards, and as to the authority by whom, and the conditions subject to which, such estimates may be sanctioned;
 - (k) as to the returns, statements and reports to be submitted by boards; and
 - (l) generally, for the guidance of boards and public officers in all matters connected with the carrying out of this Act.
- (2) In making rules under clause (c), the Local Government may direct that a breach of any provision thereof shall be punished with fine which may extend to fifty rupees.

CHAPTER VI.

SUPPLEMENTAL.

Penalty on member, officer or servant of board being interested in contract made with board.

65. (1) If any member, officer or servant of a board is, otherwise than with the permission in writing of the Commissioner of the division, directly or indirectly interested in any contract made with the board, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

XLV of
1860.

(2) A person shall not by reason of being a shareholder in, or member of, any incorporated or registered company be held to be interested in any contract

tract entered into between the company and the board, but he shall not take part in any proceedings of the board relating to any such contract.

Liability of members for loss, waste or misapplication.

66. Every person shall be liable for the loss, waste or misapplication of any money or other property belonging to the board, if such loss, waste or misapplication is a direct consequence of his neglect or misconduct while a member of the board, and a suit for compensation may be instituted against him by the board with the previous sanction of the Commissioner, or by the Secretary of State for India in Council.

Acquisition of land under Act X of 1870.

X of 1870.

67. Where any land, whether within or without the limits of a municipality, is required for the purposes of this Act, the Local Government may, at the request of the municipal board, proceed to acquire it under the provisions of the Land Acquisition Act, 1870; and, on payment by the board of the compensation awarded under that Act, and of the charges incurred by the Government in connection with the proceedings, the land shall vest in the board.

Procedure for making rules.

68. (1) The authority empowered to make rules under section 10, section 55 or section 64 shall, before making them, publish, in such manner as may in its opinion be sufficient for giving information to persons interested, a draft of the proposed rules, with a notice specifying a date at or after which the draft will be taken into consideration; and shall, before making the rules, receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(2) Every rule made under any of those sections shall be published in the local official Gazette in English and in such other language or languages as the Local Government may direct; and such publication shall be conclusive evidence that the rule has been made as required by this section.

Prosecutions.

69. A Court shall not take cognizance of an offence punishable under this Act, or the rules made under

under this Act, except on the complaint of the municipal board or of some person authorized by the board in this behalf.

70. Nothing in this Act shall prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other law to any higher punishment or penalty than that provided by this Act or the rules made under it: Provided that a person shall not be punished twice for the same offence.

Saving of prosecutions under other laws.

71. (1) All rules made under the North-Western Provinces and Oudh Municipalities Act, 1873, or any Act thereby repealed, and in force in any local area comprised in a municipality constituted under this Act at the time the municipal board for that municipality comes into existence under section 16, shall, as far as may be, be deemed to have been made under this Act, and shall continue in force until repealed by new rules so made.

Continuance of existing rules.

(2) The authority empowered to make such new rules shall, as soon as may be, make them and take such action as may be requisite for bringing them into force.

72. The Local Government may, from time to time, by notification published in the official Gazette, and in such other manner as the Local Government may, from time to time, determine, declare its intention—

Notification of intention to alter limits of municipality.

- (a) to exclude from a municipality any local area comprised therein and defined in the notification, or
- (b) to include within a municipality any local area in the vicinity of the same and defined in the notification:

Provided that where the local area is a military cantonment or part of a military cantonment, a notification shall not be published under this section in respect

respect of it without the previous consent of the Governor General in Council.

Alteration of limits of municipality.

73. (1) Any inhabitant of a municipality or local area in respect of which a notification has been published in the Gazette under section 72 may, if he objects to the alteration proposed, submit his objection in writing to the Local Government within six weeks from the publication of the notification in the Gazette, and the Local Government shall take his objection into consideration.

(2) When six weeks from the publication of the notification in the Gazette have expired, and the Local Government has considered the objections (if any) which have been submitted under sub-section (1), the Local Government may, by a notification in the official Gazette, exclude the local area from the municipality or include it therein, as the case may be.

Effect of exclusion of local area from municipality.

74. (1) When a local area is excluded from a municipality under section 73—

(a) this Act and all rules, orders, directions and powers made, issued or conferred under this Act shall cease to apply thereto; and

(b) the Local Government shall, after consulting the municipal board, frame a scheme determining what portion of the balance of the municipal fund and other property vested in the municipal board shall vest in Her Majesty for the benefit of the local area, and in what manner the liabilities of the board shall be apportioned between the board and the Secretary of State for India in Council, and on the publication of the scheme in the local official Gazette, the property and liabilities shall vest and be apportioned accordingly.

(2) All property vested in Her Majesty under sub-section (1) shall be applied under the orders of the Local Government to discharging the liabilities imposed.

imposed on the Secretary of State for India in Council under that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area.

75. When a local area is included in a municipality under section 73, this Act and all rules, orders, directions and powers made, issued or conferred under this Act and in force throughout the whole municipality at the time the local area is so included shall apply to the local area.

Effect of including local area in municipality.

76. Nothing in this Act shall affect the Local Authorities Loans Act, 1879.

Saving of Act XI of 1879.

77. Every member of a municipal board constituted under this Act shall be deemed to be a municipal commissioner within the meaning of every enactment for the time being in force.

Member of municipal board to be municipal commissioner.

CHAPTER VII.

EXCEPTIONAL PROVISIONS.

78. (1) If it appears to the Local Government that the circumstances of any municipality are such that the provisions of this Act requiring that a certain proportion of the members of a municipal board be elected are unsuited thereto, the Local Government may, by notification in the official Gazette, exempt the municipality, wholly or in part, from the operation of those provisions; and thereupon those provisions shall not apply, or shall only apply in part, as the case may be, to the excepted municipality until again applied thereto by a like notification of the Local Government:

Power to exempt municipalities from operation of provisions of Act regarding election.

Provided that no notification shall be issued under this section in respect of a municipality for which a municipal board has come into existence unless its issue has been sanctioned by the Governor General in Council.

(2) While

(2) While the municipality continues to be excepted, wholly or in part, from the operation of the provisions mentioned in sub-section (1), the Local Government may appoint such of the members of the municipal board as would otherwise have been elected.

Power to withdraw municipal area altogether from operation of this Act or Act XV of 1873.

79. (1) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, withdraw from the operation of this Act or the North-Western Provinces and Oudh Municipalities Act, 1873, the area of any municipality constituted under that Act.

XV of 1873.

(2) When a notification is issued under this section in respect of any municipality, the Act, and all rules, bye-laws, orders, directions and powers made, issued or conferred under the Act, shall cease to apply to the local area comprised in the municipality, the balance of the municipal fund and all other property which at the time of the issue of the notification is vested in the municipal board or municipal committee shall vest in Her Majesty, and the liabilities of the board or committee shall be transferred to the Secretary of State for India in Council.

(3) All property vested in Her Majesty under sub-section (2) shall be applied under the orders of the Local Government to discharge the liabilities imposed on the Secretary of State for India in Council by that sub-section, or for the promotion of the health, comfort, convenience or interest of the inhabitants of the local area comprised in the municipality.